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U.S. DISTRICT COURT EDNY

★ FEB 17 2006 ★

BROOKLYN OFFICE

MOVANT'S COUNSEL IS DIRECTED
TO SERVE A COPY OF THIS ORDER
ON THE PARTIES IN THE MANNER REQUESTED.

February 7, 2006

Kansas City

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The application is
Granted - SO ORDERED

s/Robert Levy

2/8/06

Via Telefax

The Honorable Robert M. Levy
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: James Boyd, et al., v. Interstate Brands Corp., 00 Civ 2249 (JG)(RML)

Dear Judge Levy:

We represent defendant in the above referenced case.

This is to advise the Court that defendant will not object to the amended schedule proposed in the February 1, 2006 letter from David C. Sapp, counsel for plaintiffs.

During my discussion today with Mr. Sapp, he determined that a footnote inadvertently was dropped from his February 1 letter to the Court. The footnote related to one agreed upon deposition and other still disputed deposition issues. We agreed that I would provide to the Court the text of the footnote in this letter, which then could be considered part of Mr. Sapp's February 1, 2006 letter proposing the amended schedule. The footnote text reads as follows:

IBC has requested an additional day to complete the deposition of named plaintiff James Boyd, and the parties are in the process of scheduling that deposition date. Plaintiffs have requested that IBC produce its General Manager James Forbes for an additional half-day of deposition. IBC has not agreed to that request. The parties continue to attempt to resolve this matter, but, if they are unable to do so, will seek the Court's intervention. Defendant also has an unresolved issue regarding the deposition of plaintiffs regarding supplemental discovery responses and denials of admission requests. Plaintiffs oppose any additional depositions of plaintiffs.

We appreciate the Court's consideration of this matter.

Very truly yours,

Brian J. Flanagan

For FISHER & PHILLIPS LLP

cc: David C. Sapp, Counsel for Plaintiffs

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TOTAL P.02

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